

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Thursday, August 1, 2013
Place: 1300 18th Street, First Floor
Bakersfield, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. The following rulings are tentative. The tentative ruling will not become the final ruling until the matter is called at the scheduled hearing. **Pre-disposed matters will generally be called, and the rulings placed on the record at the end of the calendar.** Any party who desires to be heard with regard to a pre-disposed matter may appear at the hearing. If the party wishes to contest the tentative ruling, he/she shall notify the opposing party/counsel of his/her intention to appear. **If no disposition is set forth below, the hearing will take place as scheduled.**
2. Submission of Orders:

Unless the tentative ruling expressly states that the court will prepare a civil minute order, then the tentative ruling will only appear in the minutes. If any party desires an order, then the appropriate form of order, which conforms to the tentative ruling, must be submitted to the court. When the debtor(s) discharge has been entered, proposed orders for relief from stay must reflect that the motion is denied as to the debtor(s) and granted only as to the trustee. Entry of discharge normally is indicated on the calendar.
3. Matters Resolved Without Opposition:

If the tentative ruling states that no opposition was filed, and the moving party is aware of any reason, such as a settlement, why a response may not have been filed, the moving party must advise Marlene Medina, the Calendar Clerk, at (559) 499-5825 by 4:00 p.m. the day before the scheduled hearing.
4. Matters Resolved by Stipulation:

If the parties resolve a matter by stipulation after the tentative ruling has been posted, but **before the formal order is entered on the docket**, the **moving party** may appear at the hearing and advise the court of the settlement or withdraw the motion. Alternatively, the parties may submit a stipulation and order to modify the tentative ruling together with the proposed order resolving the matter.
5. Resubmittal of Denied Matters:

If the moving party decides to re-file a matter that is denied without prejudice for any reason set forth below, the moving party must file and serve a new set of pleadings with a new docket control number. It may not simply re-notice the original motion.

9:00 A.M.

1. [12-60305](#)-B-7 EMMETT BLANTON
[13-1033](#)
CHIOU V. BLANTON ET AL
N. MCCARTNEY/Atty. for pl.

STATUS CONFERENCE RE: AMENDED
COMPLAINT
7-11-13 [[21](#)]

10:00 A.M.

1. [12-14505](#)-B-7 LANCE/COLENE BORGS DORF MOTION TO COMPEL ABANDONMENT
PK-1 7-9-13 [[48](#)]
LANCE BORGS DORF/MV
PATRICK KAVANAGH/Atty. for dbt.
2. [11-61111](#)-B-7 POLLY RAMOS MOTION TO CORRECT THE LEGAL
CRS-3 DESCRIPTION ON ORDER TO AVOID
POLLY RAMOS/MV LIEN OF KERN FEDERAL CU
7-1-13 [[45](#)]
CYNTHIA SCULLY/Atty. for dbt.
3. [13-13125](#)-B-7 TODD/CHRISTINE RICHERT MOTION TO REDEEM
PK-1 6-20-13 [[20](#)]
TODD RICHERT/MV
PATRICK KAVANAGH/Atty. for dbt.

The motion will be denied without prejudice. No appearance is necessary. The record does not establish that the motion was served on the named respondent in compliance with Federal Rule of Bankruptcy Procedure 7004(b)(1) (service on an individual), 7004(b)(3) (corporation, partnership or unincorporated association) or 7004(h) (FDIC Insured Depository Institution). *In re Villar*, 317 B.R. 88 (9th Cir. BAP 2004). Information regarding service on a corporation may be obtained from the California Secretary of State's Internet Website, see <http://kepler.sos.ca.gov/>. For a directory of FDIC Insured Institutions, see <http://www3.fdic.gov/idasp/main.asp>. Litigants are encouraged to attach a copy of their information source (web page, etc.) to the proof of service to assist the court in evaluating compliance with Rule 7004.

4. [13-11927](#)-B-7 JOY HILL
CEF-1
JOY HILL/MV
CURTIS FLOYD/Atty. for dbt.

MOTION FOR REDEMPTION
7-10-13 [[19](#)]

The motion will be denied without prejudice. The moving papers do not include an appropriate docket control number as required by Local Rule 9014-1(c).

In addition, the intended creditor/respondent is not identified in the notice or the motion.

Also, the notice of intent was not served on the respondent on or before the date it was filed in compliance with FRBP 1007(b)(2).

The motion was not filed within 30 days of the date first set for the meeting of creditors as required by 11 USC §521(a)(2)(B).

Finally, the motion seeks to redeem the vehicle for substantially less than the value stated under penalty of perjury in the schedules. No appearance is necessary.

5. [13-11571](#)-B-7 FEDERICO ESTRADA
FPS-1
FEDERICO ESTRADA/MV
FRANK SAMPLES/Atty. for dbt.

MOTION TO AVOID LIEN OF
DISCOVER BANK
6-17-13 [[16](#)]

This matter was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

6. [13-11473](#)-B-7 TYE LOCKARD
UST-1
AUGUST LANDIS/MV
PATRICK KAVANAGH/Atty. for dbt.
GREGORY POWELL/Atty. for mv.
RESPONSIVE PLEADING

MOTION TO DISMISS CASE PURSUANT
TO 11 U.S.C. SECTION 707(B)
6-10-13 [[36](#)]

10:30 A.M.

1. [09-62700](#)-B-7 ROBERT/DONNA AAL
PKB-1
THE BANK OF NEW YORK MELLON
TRUST COMPANY/MV
PATRICK KAVANAGH/Atty. for dbt.
PATRICK BRUSO/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-24-13 [[111](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be denied as moot as to the debtor(s) because their discharge has been entered. The motion will be granted for cause shown as to the chapter 7 trustee. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 4001(a)(3), that relief will be granted. *Unless the court expressly orders otherwise, the proposed order shall not include any other relief.* If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. § 506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. No appearance is necessary.

2. [13-13408](#)-B-7 STEPHANIE DODSON
CJO-1
GREENTREE SERVICING LLC/MV
R. BELL/Atty. for dbt.
CHRISTINA O/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-27-13 [[11](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be granted without oral argument for cause shown. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 4001(a)(3), that relief will be granted. *Unless the court expressly orders otherwise, the proposed order shall not include any other relief.* If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. § 506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. No appearance is necessary.

3. [13-11511](#)-B-7 JUAN COLMENARES AND
CJO-1 ADELITA VELARDE DE
GREENTREE SERVICING, LLC/MV
REBECCA TOMILOWITZ/Atty. for dbt.
CHRISTINA O/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-20-13 [[18](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be denied as moot as to the debtor(s) because their discharge has been entered. The motion will be granted for cause shown as to the chapter 7 trustee. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 4001(a)(3), that relief will be granted. *Unless the court expressly orders otherwise, the proposed order shall not include any other relief.* If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. § 506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. No appearance is necessary.

4. [13-11316](#)-B-7 APRIL SORENSEN
RCO-1
CALIFORNIA HOUSING FINANCE
AGENCY/MV
R. BELL/Atty. for dbt.
KRISTI WELLS/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-11-13 [[25](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be denied as moot as to the debtor(s) because their discharge has been entered. The motion will be granted for cause shown as to the chapter 7 trustee. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 4001(a)(3), that relief will be granted. *Unless the court expressly orders otherwise, the proposed order shall not include any other relief.* If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. § 506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. No appearance is necessary.

5. [13-13774](#)-B-7 HILAN COCKRELL
ASW-1
BUDGET FUNDING I, LLC/MV
THOMAS CASA/Atty. for dbt.
JOELY BUI/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
7-1-13 [[11](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be granted without oral argument for cause shown. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 4001(a)(3), that relief will be granted. *Unless the court expressly orders otherwise, the proposed order shall not include any other relief.* If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. § 506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. No appearance is necessary.

6. [13-13076](#)-B-7 MICHAEL/LIZBETH HUNTER
RCO-1
BANK OF AMERICA, N.A./MV
WILLIAM OLCOTT/Atty. for dbt.
ERICA LOFTIS/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-11-13 [[13](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be granted without oral argument for cause shown. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 4001(a)(3), that relief will be granted. *Unless the court expressly orders otherwise, the proposed order shall not include any other relief.* If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. § 506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. No appearance is necessary.

7. [13-13176](#)-B-7 TONY PADILLA MOTION FOR RELIEF FROM
JCW-1 AUTOMATIC STAY
U.S. BANK NATIONAL 7-15-13 [[17](#)]
ASSOCIATION/MV
ROBERT WILLIAMS/Atty. for dbt.
JENNIFER WONG/Atty. for mv.
8. [13-12778](#)-B-7 BRADFORD/KAREN LOVETT MOTION FOR RELIEF FROM
CJO-1 AUTOMATIC STAY
GREENTREE SERVICING LLC/MV 7-12-13 [[13](#)]
FRANK SAMPLES/Atty. for dbt.
CHRISTINA O/Atty. for mv.
9. [13-12698](#)-B-7 THOMAS VAN INGEN MOTION FOR RELIEF FROM
ASW-1 AUTOMATIC STAY
COLONIAL SAVINGS, F.A./MV 6-14-13 [[13](#)]
NEIL SCHWARTZ/Atty. for dbt.
JOELY BUI/Atty. for mv.

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be denied as moot as to the debtor(s) because their discharge has been entered. The motion will be granted for cause shown as to the chapter 7 trustee. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 4001(a)(3), that relief will be granted. *Unless the court expressly orders otherwise, the proposed order shall not include any other relief.* If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. § 506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. No appearance is necessary.

11:00 A.M.

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|----|--------------------------------------|-------------------------------------|--|
| 1. | <u>13-13731</u> -B-7 | TISHA FARRELL-LEWIS | PRO SE REAFFIRMATION AGREEMENT
WITH KERN SCHOOLS FEDERAL
CREDIT UNION
7-11-13 [<u>11</u>] |
| 2. | <u>13-11467</u> -B-7 | JOSE ALCALA CRUZ AND LISA
ALCALA | REAFFIRMATION AGREEMENT WITH
BMW BANK OF NORTH AMERICA, INC.
5-24-13 [<u>15</u>] |
| | | NEIL SCHWARTZ/Atty. for dbt. | |

The court intends to deny approval of this reaffirmation agreement. Both the reaffirmation agreement and the bankruptcy schedules show that reaffirmation of this debt creates a presumption of undue hardship which has not been rebutted in the reaffirmation agreement. No appearance is necessary.

1:00 P.M.

1. [12-17745](#)-B-13 F. OLIVER COOPER
DMG-4
F. OLIVER COOPER/MV

D. GARDNER/Atty. for dbt.
RESPONSIVE PLEADING

EVIDENTIARY HEARING RE:
OBJECTION TO CLAIM OF KATHY
WATSON, TRUSTEE OF JAMES S.
MOORE TRUST, CLAIM NUMBER 2
2-15-13 [[55](#)]

2. [12-17745](#)-B-13 F. OLIVER COOPER
[13-1068](#)
COOPER V. WATSON

D. GARDNER/Atty. for pl.
RESPONSIVE PLEADING

EVIDENTIARY HEARING RE:
COMPLAINT FOR DECLARATORY
RELIEF
6-17-13 [[1](#)]